UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Def#1) Francisco DEL TORO, Def#2) Dionery MEDINA-Soto,** Defendant(s)	Magistrate Case No. '08 MJ 0660 COMPLAINT FOR VIOLATION OF: Title 8 U.S.C., Sec. 1324 (a) (1)(A)(iii) Harboring and Concealing (Felony)

The undersigned complainant, being duly sworn, states:

On or about **March 3, 2008** within the Southern District of California, defendants **Francisco DEL TORO** and **Dionery MEDINA-Soto,** knowing and in reckless disregard of the fact that certain aliens, namely, **Felipe BARBA-Gonzalez** and **Manuel LEYVA-Romero,** had come to, entered and remained in the United States in violation of law, did conceal, harbor and shield from detection said aliens, and attempt to conceal, harbor and shield from detection said aliens, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii) and Aiding and Abetting in violation of Section 2.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Brian Desrosiers
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **4th** DAY OF **March, 2008**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Def#1) Francisco DEL TORO
Def#2) Dionery MEDINA-Soto

PROBABLE CAUSE STATEMENT

Furthermore, the complainant states that **Felipe BARBA-Gonzalez** and **Manuel LEYVA-Romero,** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144G.

On March 3, 2008 the U.S. Border Patrol's Special Response Team (SRT) executed a search and arrest warrant at a residence on East 2nd Street in National City, California. Border Patrol Agents assigned to the San Diego Sector Smuggling Interdiction Group (SIG) had previously conducted surveillance of the residence and had established probable cause to apply for and receive a search warrant for violation of 8 USC 1324 Alien Smuggling.

At approximately 7:15 a.m., the agents arrived at the residence. Agents announced their presence and purpose and demanded entry. After a short delay, agents believed that there were people inside the residence and determined that they were not being granted entry. Agents then breached the door and entered the residence. In the immediate area was the main living room and there were multiple blankets on the floor. Agents secured the area and all of the individuals, including the defendant#1 **Francisco DEL TORO**, who was found hiding. One individual was encountered attempting to flee the residence through the rear. The agents proceeded to separate defendant#1 from the others. Agent B. Desrosiers spoke with each subject and questioned them as to their citizenship and immigration status.

Multiple individuals including one later identified as defendant #2 **Dionery MEDINA-Soto**, were determined to be citizens and nationals of Mexico illegally present in the United States. Two subjects were determined to be relatives of defendant# 1 and were living at the residence. One undocumented alien was in possession of a counterfeit California Driver's license and another had an expired I-688 Employment Authorization Document. A total of eleven (11) people were taken into custody and transported back to the Chula Vista Station for processing.

STATEMENT OF DEFENDANT#1: Francisco DEL TORO

The defendant was read the Miranda rights and was willing to answer questions without an attorney present. He stated that he became a naturalized citizen of the United States in 2001. According to the defendant, he has been renting the residence at National City, California for approximately seven years. When asked about other people residing there, the defendant stated that he lived there with his wife, children and extended family. When questioned about today's event, the defendant freely admitted that he has been harboring illegal aliens for approximately three months. In those three months, the defendant stated he has harbored approximately seventy illegal aliens. He further stated that he lost his job at a restaurant where he was working as a waiter. While working at that restaurant a lady offered him a job harboring illegal aliens.

CONTINUATION OF COMPLAINT:
Def#1) Francisco DEL TORO
Def#2) Dionery MEDINA-Soto

The defendant was offered fifty dollars per illegal alien that he allowed to stay at his house. The defendant added that the illegal aliens are at his house for a short period of time until they are transported to their final destination. The drivers pay the defendant fifty dollars per person prior to leaving the residence. The defendant was shown a photograph of a female arrested at the residence. The defendant identified the female only as "Guera". A material witness later identified "Guera" as defendant #2 Dionery **MEDINA**-Soto. The defendant stated that she drove a brown sedan with Mexican license plates and two smuggled aliens into his backyard at approximately midnight. The defendant admitted that defendant #2 has transported illegal aliens to his house three times before. The defendant admitted that he knew that the subjects that arrived at his house were illegal aliens.

STATEMENT OF DEFENANT #2: Dionery MEDINA-SOTO

MEDINA was read her Miranda rights and was willing to answer questions without an attorney present. She freely admitted to being a citizen and national of Mexico illegally present in the United States. MEDINA admitted to being recruited by a person she only knows by the moniker of "Negro" to participate in the smuggling of aliens into the United States. The smuggler offered her the opportunity to earn $10,000.00 Mexican pesos per vehicle she drives into the United States. MEDINA accepted the offer due to being in financial debt.

After crossing through the San Ysidro Port Of Entry, MEDINA stated that she drove directly to defendant #1's house, where she delivered the five (5) undocumented aliens. Three of the five undocumented aliens stayed in the house for approximately ten (10) minutes before they were transported out of the house by an unknown person. MEDINA claimed the other load vehicle also arrived at the house a few minutes later but those aliens were also immediately transported out of the house. MEDINA admitted to have knowledge of the fact that the people hidden in the trunk of her vehicle in this event and the previous two events were undocumented aliens.

MATERIAL WITNESS STATEMENTS:

Material witnesses **Felipe BARBA-Gonzalez** and **Manuel LEYVA-Romero** admitted in summary that they are citizens and nationals of Mexico illegally present in the United States. Each stated that they made arrangements in Mexico to be smuggled to various parts of the United States for fees ranging from $3,500.00 to $3,600.00 (US). The smuggler explained to them that they would be smuggled into the United States hidden in the trunk of a car. The material witnesses stated that they were taken to an unknown house in Tijuana, Mexico where several other individuals were waiting to be smuggled. The material witnesses stated that they were loaded into the trunk of a white or gray sedan with four other people. They were smuggled across the international border and taken to a house where they were later arrested by the Border Patrol.

The material witnesses were presented with a set of Polaroid photographs depicting the individuals arrested in the load house. The material witnesses were able to positively identify defendant#1 Francisco **DEL TORO** as person that opened the trunk of the car and asked them their names.

The material witnesses were also able to positively identity defendant #2 Dionery **MEDINA**-Soto as one of the individuals they saw at the staging house in Tijuana, Baja California, Mexico and as the driver of vehicle that smuggled them across the international border and.